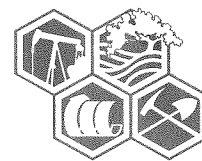
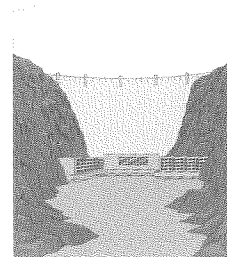


# SMARA UPDATE



The Quarterly Newsletter of the Department of Conservation - Office of Mine Reclamation

## SMGB Defines the Flood Control Exemption



Acting on a joint recommendation from its Mine Reclamation Standards and Policy committees, the State Mining and Geology Board approved draft regulatory language defining engineered constructed flood control facilities, the clean-outs of which are exempt from the requirements of SMARA. This language is being prepared for circulation as part of the regulatory process. The board concluded a new regulation is necessary to clarify both PRC §2714 exemption language and the recently issued Attorney General's opinion (No. 95-502) on flood control projects.

Until such time as regulatory language can be formally adopted, the board's desire is that the following language be used as a guideline for determining which of those projects designated as flood control activities may be found exempt from SMARA:

*"The removal of post construction accumulated materials from a*

*responsible public agency approved, managed, engineered constructed facility intended for the purpose of water retention or debris retention, or from a flood water conveyance, where the post extraction condition, capacity or grade of the facility or conveyance does not exceed the as-built design specifications contained in the approved documents for the facility or conveyance, shall be exempt from the provisions of the Act."*

For questions or comments on the proposed language, call the board office at (916) 322-1082.

reviewing reclamation cost estimates and financial assurance mechanisms.

Planned workshop dates are as follows:

September 26, 1996	Susanville
October 17, 1996	Eureka
October 24, 1996	Bishop
November 6, 1996	Nevada City
November 13, 1996	Sonora
January 7, 1997	Sacramento
March 6, 1997	Riverside
March 13, 1997	San Jose
April 23, 1997	Merced
April 24, 1997	San Luis Obispo

Locations were selected in an attempt to limit driving time for most planners to approximately two hours one way and to ensure that some of our less-frequented regions had the opportunity to host a workshop. We encourage everyone to reserve space in advance because some locations will have limited seating capacities.

While only these 10 workshops are planned for the 1996-97 fiscal year, OMR plans to continue the workshop program into at least the next year to accommodate those regions which may not be conveniently served by the current schedule. For questions regarding the workshops, or to make your reservation, please call Carolyn Mefferd at (916) 323-9198.

## Reclamation Workshops Underway

OMR staff have adopted an ambitious schedule of one-day workshops for the purposes of providing training and expertise to local, state and federal agency personnel in the implementation of SMARA's reclamation requirements. Information on what to look for in a reclamation plan, determining the applicability of SMARA exemptions and compliance issues will be addressed. Also, for the first time, OMR staff will provide tips on

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## Reclamation Tips



*The following is excerpted from the July/August issue of California Geology, published by the California Department of Conservation's Division of Mines and Geology.*

### NATIVE SEED COLLECTION FOR MINED-LAND REVEGETATION

by:  
Karen Wiese,  
OMR Plant Ecologist

For thousands of years, seed collecting has been an integral part of all cultures throughout the world. Seeds were gathered for food, trade items and currency. Wars were fought over the right to collect seeds. Seed collecting continues to be a worthwhile business as the need to provide site-specific native plant seed for revegetation grows by legislative mandate and a world-wide movement to preserve biodiversity.

In 1994, the Federal Native Plant Conservation Memorandum of Understanding was established by seven federal agencies to identify priority conservation needs for native plants and their habitats. The MOU states that native plant species that are of aesthetic, ecological, educational, historical, recreational, and scientific value to the United States and our native plant heritage should be maintained by ensuring that native plant species and communities are conserved on public lands, and promoted on private lands. In fact, both the Bureau of Land Management

and the U.S. Forest Service have specific requirements for the conservation and maintenance of native plants on mined lands.

In California, the Surface Mining and Reclamation Act establishes legislation that requires mined lands to be reclaimed to a usable condition. Under AB 3551 and AB 3903, revisions to SMARA require statewide standards for the reclamation of mined land, including California Code of Regulations Section 3705(g), which requires native plant species be used for revegetation except under special circumstances.

The goal of reclamation should be determined before any rehabilitation program begins, because the end use of a site dictates what plant species will be needed for revegetation. For example, if the end use of a site is a residential area, then the goal of reclamation is erosion control until the site is developed. The plant species best suited for short-term erosion control may not be native plant species. An inexpensive erosion control mix may be sufficient. However, native plants should be used when the goal of revegetation is creation of open space or wildlife habitat, or restoration of the site to the predisturbance vegetation type. Native plants are those species that existed prior to the European influx in the 1700s. With reclamation of wildlife habitat or open space in mind, plant species that existed on the site before disturbance and those that have naturally revegetated previously disturbed sites have the best chance to survive. It is these species that have evolved genetically to be adapted to the site-specific conditions of the soil, slope, aspect, and climate. Because of their outstanding adaptability, these plants provide a better chance for successful reclamation and subsequent cost savings. Botanical surveys conducted before disturbance or

surveys of nearby reference areas can assist the reclamationist in developing a palette of revegetation species.

Once specific plant species have been chosen for the revegetation project, the seed can be collected from the site by mine personnel or a contract seed collector, or purchased from commercial sources. If seed is purchased from a commercial seed company, it is important to know the origin of the seed and obtain seed from the same geographic location as the project site.

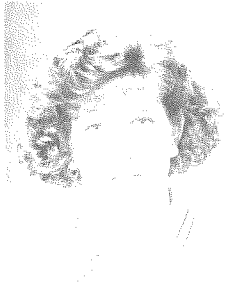
Many plant species are comprised of local ecotypes that are narrowly adapted to local climate and edaphic conditions. The plants with the best chance of survival on a site are those ecotypes that are growing on (or near) the site. Use of nonlocal plants for revegetation can result in poorly adapted plants as well as genetic contamination. The results of interbreeding between nonlocal and native plants can be detrimental and permanent.

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Lucien "Dusty" DeStramps, Project Superintendent, Noranda Grey Eagle Mines, Inc. holds a can of lupine seeds he collected from the Noranda Grey Eagle Mine in Happy Camp, California.

## Farewell from the from the Director



*Elin D. Miller*

Sometimes in a person's life there comes a point where the path chosen must quickly change to take advantage of an unforeseen opportunity. My own life recently took this course. I was unexpectedly offered a position in Indiana as the Director of Government

and Public Affairs with DowElanco, a joint venture between Eli Lilly and Dow. After much thought and consideration, I decided to accept the offer.

I have greatly enjoyed the chance to work at the Department of Conservation, and to meet and work with each of you. Working to implement programs as complex as those created under the Surface Mining and Reclamation Act is both challenging and rewarding. My respect for the commitment and talent of those serving in local government during a time of diminishing resources has grown even stronger during my brief tenure here.

I feel confident that I am leaving the Department in good hands under the leadership of B. B. Blevins. Recent efforts to improve and enhance

communication with our constituency groups will continue to grow and flourish under B.B.'s guidance. A series of mined land reclamation workshops will go on as planned. Likewise, the one-on-one contact we have begun with each of the counties will continue; our plan is to speak with all lead agencies by the end of this calendar year.

The inroads we've made toward better working relationships with local government do not just reflect one director's goals, but rather the goals of the Department. As such, it is important we all move forward.

It was a difficult decision to leave the Department of Conservation. I wish you all well and thank you for the opportunity to work with you on mine-related issues.

## Enforcement News

Shortly before announcing her resignation, Department of Conservation Director Elin D. Miller notified lead agencies and mine operators of a shift in departmental SMARA policy toward a more enforcement-oriented focus. This new priority reflects a perception that sufficient time has passed since AB 3551 became effective in 1991 for all lead agencies and operators to have fully implemented the law.

The focus of the Department's enforcement program for the next year will be in four parts: first, mines that currently do not have reclamation plans will be offered one final opportunity to show good faith towards obtaining a plan, or to get back on their previously agreed on good faith schedule. If an

operator is not responsive to this final opportunity, the Department will issue administrative penalties.

Second, any mine currently not reporting a lead agency-approved financial assurance to the Department will be offered an opportunity to demonstrate good faith toward obtaining one. A timeline for an in-place financial assurance within six months of receiving the Department's notice will be requested of operators. Again, lack of response to this requirement will result in an administrative penalty.

Third, the Department will work with the state attorney general to seek closure actions against those few mines that have failed to meet the requirements of their stipulated judgements from earlier administrative penalties.

Fourth, the Department will again consult with the attorney general to seek reclamation of mines that have been abandoned by their operator since 1976. This may involve legal action against walkaway operators who can be identified.

On both the reclamation plan and financial assurance good faith processes, we will be asking the operators to coordinate with their lead agencies. It is critical for the success of the program, and for operators to avoid administrative penalties, that lead agencies and operators work closely together to meet SMARA's requirements. As always, OMR staff will welcome your calls and questions regarding individual mines or problem areas.

*Dennis J. O'Bryant  
Assistant Director*

## Reclamation Tips

*(Continued from page 2)*

When native plants are used, the best policy is to collect plant materials from on or near the site. Therefore, plant materials for each of the designated species should be obtained from the same region as the project site. Some general guidelines are that the seed should be collected within the same watershed as the project site, within 500 feet elevation of the site, and on the same aspect and soil type.

The timing of seed collection is critical. Seed has to be collected when ripe and before it falls from the plant, rots, or is eaten. Seeds of native plants don't usually all ripen at once. Therefore, the collector has to visit the plants, take samples, decide when the greatest quantity of seed is mature, and then collect. This process usually takes more than one visit to the collection site. In addition, the seed quality may vary between stands and between years. Therefore, seed may need to be collected over more than one year. Care should be taken to obtain a diverse collection by collecting seed from more than one stand within the collection region, collecting seed from multiple individuals within a stand and not entirely stripping a plant.

Longevity is the length of time that the seeds will remain viable or live. The longevity of seeds of California native plants depends on the species. Some plants, such as members of the pea family, can live for 30 years. Riparian plants, such as members of the willow family, produce seeds that live for only a few hours. They die in the wild unless they are dispersed to a moist substrate like a stream bank. Determine the longevity of your seeds and plan to use these seeds before they are no longer viable.

Some plants do not produce a large seed crop each year. Instead, these

plants may produce more seed one year than another, or not produce any seed at all. Periodicity is a condition when some plant species produce more seeds one year than the next. Fir, juniper, pine, cedar, and oak are examples of trees that produce large crops of seed at different frequencies. These plants produce seed at two- to nine-year intervals. It may be necessary for the seed collector to wait a year or two until sufficient seed is produced before seed is collected.

The most flexible method of harvesting fruit or seeds is by hand. These seeds can be harvested directly into a container or apron that is carried or worn by the picker. If the seeds readily fall from the plant, the branches can be shaken to loosen the seeds which fall into the receptacle. Simple handtools such as shears and rakes, as well as wire hooks to pull the limbs closer and cutters mounted on poles, can greatly increase the amount of seed collected. When larger quantities of seed are needed, mechanical methods such as vacuums and shakers can facilitate the seed collection effort.

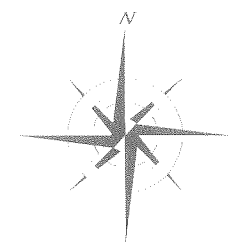
Some wildflower seeds are wind dispersed or borne in capsules that when mature, dehisce or discharge their seeds. California poppy and lupine are examples of seeds that are actively released from the plant. While this is a wonderful strategy for the dispersal of the species, this physiologic response presents a challenge for seed collectors. Collectors can tarp the ground to collect seeds, put bags around the branches that are clipped closed to trap the seed, or collect seed just before it dehisces from the seed capsule.

Burlap bags, gunny sacks, and net bags that allow maximum air flow are optimal for transporting seed until it can be cleaned. Plastic bags are not recommended because they hold in

the moisture and encourage the growth of mold.

Once harvested the seed should be dried, cleaned and stored appropriately. Dry seed is necessary to reduce the chances of fungal infestation and to aid in cleaning. Cleaning seed, often referred to as threshing, reduces storage volume and moisture, increases accuracy regarding the amount of seed to be placed on the site, diminishes the possibility of contamination with weed species, and minimizes the chances of fungal or insect infestation. Cleaning entails removing the seed from the stems and chaff, and seeds of another species. Seed viability will deteriorate through time, but with proper storage this effect can be minimized.

## Executive Officer's Report



There are a variety of issues that come before the State Mining and Geology Board related to the Surface Mining and Reclamation Act during each of its regular business meetings. Under SMARA (only one of several statutes under which the board is empowered directly with specific responsibilities), the board may:

- make regulations (state policy) that implement the statutes (state law)

*Continued on page 5*

- certify lead agency mining ordinances as being in compliance with SMARA
- designate certain mineral classified lands as having regional or statewide economic significance
- approve mineral land classification reports submitted by the state geologist
- function as a quasi-judicial appellate body to hear appeals from individuals on certain actions taken by the state or lead agency against them
- provide direction and guidance to the state geologist

Those items on which the board renders a decision, called "action items," have made it to the board's agenda following prior public hearings and consideration by one or more of the board's six committees. One exception is administrative penalty appeals, which come before the board without prior committee review.

At its July meeting, held in Sacramento, the board took the following actions:

1. Adopted the 1995 fee schedule regulation (California Code of Regulations §§3696 - 3699) and 1995 mining operation annual report form (MRRC-2). Although the board had approved the regulation through the emergency regulatory process earlier this year, so-called "emergency regulations" must be readopted through the nonemergency process to remain in effect beyond 90 days.
2. Developed proposed language defining engineered constructed flood control facilities, for which clean-outs may be deemed exempt from SMARA requirements.
3. The board considered a request by Chandler Ranches for a one-time exemption from SMARA to

clean out a portion of the Huerhuero Creek that runs through Chandler Ranches' property. The board granted this request as a one-time event subject to all lead agency and other responsible agency permits. In reviewing this case, the board concluded that severe environmental and property losses were possible to both Chandler Ranches and neighboring sites should heavy runoff occur in this channel; however, the board cautioned both Chandler Ranches and the lead agency that future clean-out operations of this nature would be subject to SMARA.

4. The board approved DMG *Open File Report 96-03; Update of Mineral Land Classification: Aggregate Materials in the South San Francisco Bay Production-Consumption Region*. This new publication from the Department of Conservation's Division of Mines and Geology will be available in a few weeks.

5. The board certified a revised and updated version of Humboldt County's mining ordinance pursuant to PRC §2774.3. The board commended the county board of supervisors and its staff for producing an excellent document.

6. The board declined to certify a revised and updated version of Amador County's mining ordinance, citing specific areas of the ordinance to be in conflict with SMARA. The county is working to modify these areas.

7. The board upheld an administrative penalty in the amount of \$2,000 against Enniss Enterprises, Inc. of San Diego County.

#### LATE BREAKING NEWS:

At its September 12 meeting, the SMGB made the following determinations on these SMARA-

related issues:

1. The board denied a request from Lane Ranch for an exemption from SMARA of its 70th Street Quarry in Palmdale, Los Angeles County. The board advised the operator to produce a reclamation plan and financial assurances in a timely manner, or reclaim the site according to lead agency specifications.

2. The board determined that proposed earthmoving activities by Stephens & Associates on the South Fork of the Eel River near Piercy, Mendocino County, for the annual Kiwanis Redwood Run charity function was exempt from the requirements of SMARA under PRC §2714(b), on-site construction operations. The proposed maintenance activities were very limited in scope, noncommercial and infrequent.

3. The board formally certified revised mining ordinances for the counties of Santa Cruz and Amador, and certified a new mining ordinance for Yolo County.

*John G. Parrish, Ph.D.  
SMGB Executive Officer*

## Compliance Corner

*"Compliance Corner" will be a regular feature aimed at answering commonly asked questions of OMR related to the compliance functions of the program. If you have questions for this feature, please submit them to OMR, with a request that they be addressed in "SMARA Update."*

#### Lead Agency Inspections

Section 2774(b) of SMARA details the lead agency inspection requirements.

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## Compliance Corner

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The following are some key points to remember when planning inspections.

**Why?** When creating SMARA, the legislature strived to ensure mining operations complied with the act. Therefore, SMARA requires lead agencies to inspect operations and to determine whether the operation is in compliance with the reclamation plan and permit conditions. Also, since lead agencies must annually review the financial assurance cost estimates, the inspector should compare the operation's estimate with the on-the-ground conditions during the inspection.

**When?** At a minimum, lead agencies must inspect operations once per calendar year. The inspection must occur within six months of the lead agency's receipt of the operation's annual report. Since annual reports are due July 1, most inspections should occur between July 1 and December 31.

**Who?** Since SMARA states "the lead agency shall conduct an inspection...." technically, any lead agency staff can inspect mining operations. Generally, inspections are conducted by planning, public works, engineering, or code enforcement staff. However, lead agencies may utilize a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester

experienced in land reclamation to conduct the inspection, as long as the inspector has not been employed by the mining operation in any capacity during the previous year.

**Cost?** The operator is responsible for the reasonable cost of the inspection.

The SMGB-approved surface mining inspection report form (MRRC-1) must be used for the inspection, and copies of the completed inspection report must be provided to both the operator and the Office of Mine Reclamation. Lead agencies may obtain copies of the blank forms by calling the OMR office at (916) 323-9198.

*Tim Kustic  
Principal Compliance Engineer*

The *SMARA Update* is a quarterly publication of the Department of Conservation's Office of Mine Reclamation, 801 K Street, MS 09-06, Sacramento, California 95814, (916) 323-9198, <http://www.consrv.ca.gov/omt/index.html>. The purpose of this publication will be that of imparting the latest in reclamation tips, as well as changes in legislation or interpretation of existing statutes by court decisions.

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